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APPLICATION NO. 802	FILING DATE 02/27/97	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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ART UNIT 3581 PAPER NUMBER 6

12/02/98

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/828,802

Applicant(s)

Park

Examiner

Marcus Charles

Group Art Unit

3681



☒ Responsive to communication(s) filed on Sep 21, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-4, 11-14, 19-23, 29-35, 37, and 38 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 29-31 is/are allowed.

☒ Claim(s) 1-4, 13, 14, 19-23, 32-35, 37, and 38 is/are rejected.

☒ Claim(s) 11 and 12 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

1. THIS OFFICE ACTION IS RESPONSIVE TO APPLICANT'S AMENDMENT FILED 09/21/98

Acknowledgment is made of changes to the claims which have been entered.

Claims 5-10, 15-18, 24-28, and 36 have been canceled.

### ***Drawings***

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 112***

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites the limitations "the first rotational force-transmitting member", "the second force-transmitting member" and "the reference member" in lines 3-4, 5 and 15-16 respectively. There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 13-14, 23, 35 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Sabin('621). Sabin discloses an automatic stroke regulator (fig.1) comprising a first rotational member (6b) for attachment to a means (2) for rotating the rotational member about the center of rotation, a first translational member (col.1, lines 15-19) configured for transmitting force to a means for using the force, a connecting means (15) for operatively connecting the first rotational member and the first translational member such that movement of one the translational and rotational member causes movement of the other of the rotational member and translational member, wherein a portion of the connecting means (15) is pivotally connected to the first rotational member at a first radial attachment point removed from the center of the rotational member such that the first radial attachment point and the center of rotation (14) define a first attachment radius and an adjusting means (10) for varying the location of the first radial attachment point (9) responsive to a rotational speed of the first rotational member to thereby increase and decrease the attachment radius (col.2, line 95-col.3, line 9).

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Regarding claims 3-4 and 35, Sabin further discloses the first rotational member includes a moveable portion (17) and the connecting means is pivotally connected to the moveable portion, and wherein the adjusting means (10) further comprises means (20) for moving the moveable portion, and the first rotational member includes a perimeter which defines an interior area (note the opening of 6a), which is less than a majority of the interior area comprises an opening.

With respect to claims 13-14, Sabin discloses the present invention above.

In claim 37, it is apparent that the claimed method step would inherently be performed during the manufacturing of the Sabin in view of the Waterman apparatus.

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19-21 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sabin('631) in view of Waterman('539). Sabin discloses the present invention except for a second force transmitting member pivotally connected to a first force transmitting member, and a lengthening means, wherein the lengthening means comprising a male-thread cylindrical member threadably engaged within a female thread sleeve. Waterman discloses a second force

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transmitting member (40) is pivotally connected at one end to a first force transmitting member for setting and controlling the motion of travel, and a lengthening means of the connecting means (15) comprising a male-thread cylindrical member threadably engaged within a female-threaded sleeve (27), wherein the male threaded cylindrical member having a longitudinal axis and being rotatable with respect to the female threaded sleeve in order to increase or decrease the length of the connecting means. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Sabin device such that a second force transmitting member is pivotally connected at one end to the first force transmitting member and the connecting means is provided with a lengthening means as shown by Waterman for setting and controlling the motion of travel and to increase or decrease the length of the connecting means respectively.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sabin in view of Galvin('448). Sabin discloses the present invention except for the translational member comprising a piston member slidably disposed within an engine cylinder. Galvin discloses a translational member (fig.3) comprising a piston member (2) slidably disposed within an engine cylinder (1) in order to constrain the movement of the translational member to move along a straight path (col.1, lines 59-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Sabin device such that the first translational

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member is a piston member slidably disposed within an engine cylinder in view of Galvin in order to constrain the movement of the translational member to move along a straight path.

9. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sabin('621) in view of Waterman('539). The Sabin and Waterman combination discloses the present invention except for the rotational member is a circular wheel having the shape of a circle and being configured for attachment to a means for rotating the circular wheel about a center of rotation. Sabin also disclose that the invention maybe used in different kinds machinery. It would have been obvious matter of design choice to modify the Sabin and Waterman combination such that the rotational member is integrally attached to a circular wheel depending on the kind of machinery.

***Allowable Subject Matter***

Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 29-31 are allowed.

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***Response to Arguments***

Applicant's arguments filed 09/21/98 have been fully considered but they are not persuasive.

11. Applicant's arguments with respect to claims 1-4, 13-14, 19-23, 32-35 and 37-38 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

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### FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 305-3597**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

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(Date)

Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, can be reached on (703) 308-0830. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

*Charles A Marmor 12/1/98*  
**CHARLES A MARMOR**  
**SUPERVISORY PATENT EXAMINER**  
**ART UNIT 3681**

*mc*  
Charles /mc  
November 24, 1998